

IN THE COURT OF CRIMINAL APPEALS

**Christopher James Holder,**  
Appellant

§

FILED  
COURT OF CRIMINAL APPEALS  
12/27/2019  
DEANA WILLIAMSON, CLERK

§

**v.**

§

**PD-1269-16**

**The State of Texas,**  
Appellee

§

**State's Unopposed Motion to Extend the Time for Filing Brief**

Pursuant to Rule of Appellate Procedure 10.5(b), the State requests an extension of time to file its brief and would show the following:

**I.**

Appellant filed a petition for discretionary review from the Fifth District Court of Appeals' decision in *Christopher James Holder v. The State of Texas*, No. 05-15-00818-CR, 2016 WL 4421362 (Tex. App.—Dallas Aug. 19, 2016, pet. granted). On June 7, 2017, this Court granted review, on one of Appellant's five grounds for discretionary

review.<sup>1</sup> The parties filed their briefs, and oral argument took place on September 27, 2017.

On June 26, 2018, Appellant filed a motion asking this Court to remand the case to the court of appeals for further consideration of his Article I, Section 9 claim in light of the United States Supreme Court's intervening decision in *Carpenter v. United States*, 138 S. Ct. 2206 (2018).

## II.

On October 23, 2019, this Court retrospectively granted discretionary review of Ground Four of Appellant's petition for discretionary review, which states:

The Court of Appeals erred in holding the State's acquisition of Petitioner's historical cell phone records under an order issued under the federal stored communications act with a showing of probable cause in the petition was reasonable under the guarantees of privacy in Article I section 9 of the Texas Constitution.

*Holder v. State*, No. PD-1269-16, 2019 WL 5445198 (Tex. Crim. App. Oct. 23, 2019). The Court ordered both parties to file their briefs within

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<sup>1</sup> The Court granted review on Ground Three: "The Court of Appeals erred in holding the State's petition to obtain the Appellant's cell phone records set forth the 'specific and articulable facts'

30 days from the date of its order. *Id.* Appellant filed his brief on November 8, 2019.

This Court previously denied an agreed motion for extension of time for this brief on December 9, 2019.

### III.

The State's brief was due to be filed on November 22, 2019. The State respectfully requests an extension of time of 31 days until today, **December 23 2019**, to file its brief. The State's brief was electronically filed with this motion.

### IV.

Good cause exists for the extension, namely:

Counsel has substantial day-to-day management duties as chief of the appellate division of the Collin County District Attorney's Office. The Appellate Division is responsible for all post-conviction litigation for an office consisting of 75 attorneys, as well as expunctions, nondisclosures, DNA motions, and trial support for a wide variety of criminal, CPS, and APS cases.

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required by federal law under 18 U.S.C. section 2703(d).” This issue is still pending in this Court.

Since the Court ordered additional briefing in this case:

Counsel has filed briefs in the following cases:

*William Travis Hendrix v. State*, No. 05-18-00822-CR on November 4, 2019.

*Michael Shannon Thedford v. State*, No. 05-18-00844-CR on November 25, 2019.

*Treshawn Robinson v. State*, Nos. 05-19-00527-CR, 05-19-00516-CR, and 05-19-00537-CR on December 4, 2019.

*Ermitano Rodriguez v. State*, No. 05-18-01448-CR on December 4, 2019.

Attorneys under my supervision filed 17 responses to post-conviction writs (excluding those listed above) during the relevant period. I am the principal reviewer of these documents.

Attorneys under my supervision filed 14 briefs (including two accelerated briefs) during the relevant period in addition to the briefs personally filed by counsel.

I am the principle expunction attorney for the Collin County Criminal District Attorney. During the relevant period, I reviewed 88 petitions for expunction and notified opposing counsel or the petitioners

of our position on the matters. I reviewed 89 orders of expunction, notified counsel or petitioners of necessary changes, signed-off where appropriate, and ensured the orders were available for pickup. I prepared and filed 4 general denials in expunction proceedings. In the background, I fielded many inquiries by telephone or email about eligibility for expunction, policies regarding expunction, and procedures for expunction cases in the Collin County Courthouse.

I and attorneys under my supervision have been involved in a variety of death penalty litigation. I am the attorney assigned to *State v. John Steven Gardner*, No. 219-81121-2006, who is presently set for execution on January 15, 2020. During the relevant period, I have reviewed 5 packages of inmate mail, reviewed separate materials relevant to clemency, and overseen travel arrangements made for the victim's family. I have participated in two meetings with another attorney and an investigator for *State v. Ivan Abner Cantu*, 380-80047-2001, related to a Chapter 64 DNA proceeding and allegations expected in a subsequent writ. I have attended two meetings with another attorney in my division and the trial team for an upcoming death penalty prosecution in *State v. Brandon De McCall*, No. 296-81183-

2018. Two attorneys in my division are currently devoted to completing proposed findings of fact related to the Article 11.071 writ proceeding in *Ex parte Eric Williams*, a death penalty case out of Kaufman County in which we serve as prosecutors pro tem.

I am currently assisting in a court of inquiry pending in the 366<sup>th</sup> Judicial District Court presided over by Assigned Judge Michael Snipes. In addition to significant legal research, this assignment has required a lengthy meeting with the petitioner, multiple calls with the presiding judge, and multiple calls with subjects of the inquiry.

Finally, and fairly unique to this case, the parties had significant negotiations related to a possible plea in this case. This required multiple contacts with family members of the victim as well as multiple contacts between the State and Appellant's attorney. The parties faced delays in obtaining approval of the trial court for Appellant's counsel to travel to TDCJ to discuss the negotiations with Appellant. The parties did not reach an agreed resolution.

**WHEREFORE**, premises considered, the State respectfully requests that the Court grant the State's motion to extend time to file its brief until **December 23, 2019**, the date the brief and this motion were filed with the Court.

Respectfully submitted,

**Greg Willis**  
Criminal District Attorney  
Collin County, Texas

/s/ John R. Rolater, Jr.  
**John R. Rolater, Jr.**  
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**CERTIFICATE OF SERVICE**

The State has e-served counsel for Appellant, Steven R. Miears, through the eFileTexas.gov filing system at SteveMiears@msn.com on this the 23rd day of December, 2019.

/s/ John R. Rolater, Jr.  
John R. Rolater

**CERTIFICATE OF CONFERENCE**

On December 23, 2019, I conferred with Appellant's counsel Steven Mears via text message. He does not oppose this motion.

/s/ John R. Rolater, Jr. \_\_\_\_\_  
John R. Rolater, Jr.